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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,930	03/22/2001	Ellen Heber-Katz	00486.00006	1820

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BANNER & WITCOFF  
1001 G STREET N W  
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WASHINGTON, DC 20001

EXAMINER

LACOURCIERE, KAREN A

ART UNIT	PAPER NUMBER
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1635

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

945

**Advisory Action**

Application No.

09/813,930

Applicant(s)

HEBER-KATZ, ELLEN

Examiner

Karen A. Lacourciere

Art Unit

1635

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☒ Newly proposed or amended claim(s) 2,17,19,24,25 and 27-31 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: 2,15,17,19,25 and 27-30.

Claim(s) rejected: 1,16,18 and 24.

Claim(s) withdrawn from consideration: 3-5.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: Note the attached interview summary.

  
KAREN A. LACOURCIERE, PH.D.  
PRIMARY EXAMINER

Karen A. Lacourciere

Continuation of 2. NOTE: Applicant has amended claim 1 to recite specific types of wounds within the broader genus previously claimed which would require a new search and further considerations. Additionally, the amendments to claim 15 introduce new considerations under 35 USC 112, second paragraph, due to the recitation "adult C57B1/6", without the recitation of "mouse"..

Continuation of 3. Applicant's reply has overcome the following rejection(s): Applicant's amendments, if entered, would overcome the objections to claims 2, 15, 17, 19, 25 and 27-30 by making these independent claims and the rejection of claim 24, by changing the claim to be dependent on an allowable claim..

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments are directed to the claims as incorporating the proposed amendments, however, these amendments have not been entered. Further, Applicant argues that the specifically recited types of heart wounds are not disclosed in the cited references and, therefore, the references do not disclose all of the limitations of the claims. This is not found to be persuasive because the recited wounds include injuries that are so broad (e.g. a stretch, tear, a pull, and abrasion, a scrape, a bruise) that it would be expected that the injuries disclosed in the cited references (ischemic injury) would include these sorts of injuries..